

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

WILLIAM W. ROSS,

Plaintiff,

v.

WASHINGTON STATE DEPARTMENT  
OF CORRECTION,

Defendant.

CASE NO. 3:16-cv-05469-RJB

ORDER DENYING APPEAL FROM  
MAGISTRATE JUDGE ORDER

THIS MATTER comes before the Court on Plaintiff's appeal of an order of Magistrate Judge Karen Strombom denying Plaintiff's motion to appoint counsel. Dkt. 22. *See* Dkt. 14. The Court deems it unnecessary for Defendant to respond to the motion, which is otherwise ripe for consideration.

In denying Plaintiff's motion to appoint counsel, the magistrate judge explained that because there is no right to counsel in § 1983 cases, courts appoint counsel only in exceptional circumstances. After weighing the likelihood of success on the merits (unlikely to succeed) and the complexity of the case (not complex), the magistrate judge concluded that Plaintiff had not

1 made a showing of exceptional circumstances and rejected the request for appointment of  
2 counsel. Dkt. 22.

3 Plaintiff's appeal argues that he lacks the education and comprehension necessary to  
4 represent himself, and that it is unfair to deny him appointed counsel. It appears Plaintiff  
5 completed education through the sixth grade. *See* Dkt. 24.

6 Fed. R. Civ. P.72(a) provides:

7 (a) Nondispositive Matters. When a pretrial matter not dispositive of a party's claim or  
8 defense is referred to a magistrate judge to hear and decide, the magistrate judge must  
9 promptly conduct the required proceedings and, when appropriate, issue a written order  
10 stating the decision. A party may serve and file objections to the order within 14 days  
11 after being served with a copy. A party may not assign as error a defect in the order not  
12 timely objected to. The district judge in the case must consider timely objections and  
13 modify or set aside any part of the order that is clearly erroneous or is contrary to law.

14 Applied here, the magistrate judge's order should be affirmed. Plaintiff's appeal does not  
15 make a showing of clear error by the magistrate judge in her rejection of the request for  
16 appointment of counsel. *See Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984); *Weygant*  
17 *v. Look*, 718 F.2d 952, 954 (9th Cir. 1983). This Court's review of the complaint shows that even  
18 if Plaintiff had shown a likelihood of success on the merits, Plaintiff has demonstrated an ability  
19 to adequately articulate issues to the Court. Furthermore, the subject matter, which centers on  
20 harm to Plaintiff based on Defendant's allegedly deficient medical treatment, is not overly  
21 complex. Plaintiff's appeal should be denied and the order affirmed.

22 Therefore, it is HEREBY ORDERED:

- 23 • Plaintiff's appeal of the Order by Magistrate Judge Karen Strombom denying  
24 Plaintiff's motion to appoint counsel (Dkt. 22) is **HEREBY DENIED**.
- The Order of Magistrate Judge Karen Strombom denying Plaintiff's motion to  
appoint counsel (Dkt. 22) **IS AFFIRMED**.

1 The Clerk is directed to send uncertified copies of this Order to all counsel of record and  
2 to any party appearing *pro se* at said party's last known address.

3 Dated this 15<sup>th</sup> day of December, 2016.

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6 ROBERT J. BRYAN  
7 United States District Judge  
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